

EXHIBIT J



**DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL**
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600

Mr. Daniel McFadden
dmcfadden@aclum.org

Ref: 22-F-1246

Through Counsel

Jan 13, 2023

Dear Mr. McFadden,

This is the final response to your Freedom of Information Act (FOIA) request to the U.S. Department of Defense dated August 15, 2022, which was assigned FOIA case number 22-F-1246 and is one of the subjects of the ongoing litigation *ACLU v. CIA, et. al.*, No. 22-11532 (D. Mass.).

In coordination with the Federal Bureau of Investigation (FBI), a federal law enforcement agency, we can neither confirm nor deny whether we possess records responsive to your request pursuant to FOIA Exemption (b)(7)(A) [5 U.S.C. § 552 (b)(7)(A)]. A confirmation that we have or do not have responsive records would be tantamount to acknowledging the existence or nonexistence of aspects of an ongoing investigation that the FBI has not previously acknowledged. The FBI has advised that 1) if the requested records exist, they would be relevant to the FBI's ongoing investigation and 2) confirmation by the Department of Defense (DoD) as to the existence or nonexistence of such records could reasonably be expected to interfere with the ongoing investigation. Accordingly, DoD neither confirms nor denies the existence of records pursuant to FOIA Exemption (b)(7)(A) [5 U.S.C. § 552 (b)(7)(A)].

Please direct any further inquiries about this case to Attorney Julia Heiman of the Department of Justice at (202) 616-8480 or via e-mail at Julia.heiman@usdoj.gov.

Although your request is in litigation, the FBI is required by law to provide you the following information:

If you are not satisfied with the Federal Bureau of Investigation's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be



postmarked or electronically transmitted within ninety (90) days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by emailing the FBI's FOIA Public Liaison at foipaquestions@fbi.gov. The subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified. You may also contact the Office of Government Information Services (OGIS). The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mark H. Herrington", with a long horizontal flourish extending to the right.

Mark H. Herrington, Esq.
Associate Deputy General Counsel
Office of Litigation Counsel